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NEW HAMPSHIRE NATIONAL GUARD
TECHNICIAN PERSONNEL REGULATION
NUMBER 771

EMPLOYEE GRIEVANCES AND APPEALS

1. POLICIES AND PROCEDURES RELATIVE TO NEW HAMPSHIRE ARMY AND AIR
NATIONAL GUARD TECHNICIAN GRIEVANCES:

a. References:

- (1) Federal Personnel Manual, Chapter 771.
- (2) TPM 771.1.

2. PURPOSE: To establish policy and procedures whereby technicians have the opportunity to obtain consideration of their dissatisfaction with matters affecting them personally that are subject to management control. This opportunity should normally be an internal part of the day-to-day relationship between technicians and between technicians and management personnel.

3. GENERAL PROVISIONS:

a. Policy: This directive provides a procedure by which employees may seek redress on complaints and misunderstandings that are personal to them as individuals. All employees will be treated fairly and assured freedom from restraint, interference, coercion, discrimination or reprisal action in initiating grievances. This regulation is not applicable to those technicians who are part of a bargaining unit in which an employee organization has been granted exclusive recognition.

b. Definition: A grievance is a matter of personal concern or dissatisfaction to a technician, the consideration of which is not covered by other systems for review by The Adjutant General of New Hampshire and the resolution of which cannot be made at the normal supervisory level.

(1) Technician grievances may include but are not limited to such matters as:

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- (a) Working conditions and environment.
 - (b) Relationship with supervisors and with other technicians and officials.
 - (c) Management decisions specifically covered by an agency's grievance procedure.
 - (d) Implementation of personnel policies.
- (2) Appeals from the following types of actions are specifically excluded from this grievance procedure:
- (a) Reduction-in-force.
 - (b) Position classification.
 - (c) Performance ratings and performance rating warnings.
 - (d) Alleged discrimination because of race, creed, color, religion, or national origin.
 - (e) Incentive awards.
 - (f) Adverse actions under security regulations and failure to be cleared to perform duties of a classified or sensitive nature.
 - (g) Ungraded rating determinations, wage determinations and pay alignments.
 - (h) Non-selection for promotion when the sole basis for the grievance is an allegation by the employee that he is better qualified than the person selected.
 - (i) Warning notice of possible unsatisfactory performance rating.
 - (j) Within-grade increases withheld.
 - (k) Employee Organization complaints.
 - (l) Letters requiring medical certificate based on questionable sick leave record.
 - (m) Disallowance of quality salary increase.

4. THE ADJUTANT GENERAL OF NEW HAMPSHIRE recognizes and indorses the importance of bringing to light and adjusting grievances promptly. The initiation of a grievance in good faith by an employee shall not cast any reflection on his standing with the employer or on his loyalty and desirability to the organization, nor should the grievance be considered as a reflection on the employer.

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5. PROCEDURES: Any grievance between an employee(s) and the employer shall be processed in the following manner:

a. STEP I. An employee must file his grievance either verbally or in writing within ten calendar days. The time is computed from the date of the occurrence of the incident which gives rise to the grievance or the date the employee becomes aware of the decision about which he is aggrieved. The grievance shall first be taken up by the employee or employees and their immediate supervisor. Every effort will be made to resolve the grievance at this time. The supervisor shall give a decision within five work days. If the decision is not satisfactory to the employee, he/she may appeal in writing as indicated in Step II.

b. STEP II. The grievance shall be reduced to writing and submitted within five work days after the receipt of Step I decision, to the next level supervisor of the immediate supervisor who received the initial grievance. Written grievance will contain as a minimum: identity of technician, specific nature of grievance, and when appropriate the corrective action desired. An employee is entitled to be represented by a person of his choice throughout the formal processing of his grievance. He may designate a representative in his written grievance, or subsequently. The employee and his representative, if an employee of the activity, will be allowed reasonable time during regular work hours (usually not in excess of four hours) to obtain information not reasonably available outside of working hours, for the presentation of his grievance. The next level supervisor, or his designated representative, shall hold a discussion on the grievance with the employee, and/or designated representative, as applicable, and the appropriate management official within five work days after receipt of the grievance. The next level supervisor shall give his written decision within ten work days after the conclusion of the discussion and copies shall be furnished to all parties concerned.

c. STEP III. If the employee(s) is not satisfied with the decision, he may, within ten work days thereafter, make formal written request to his employer at the next higher level of supervision, requesting that the unresolved grievance be referred to The Adjutant General for purposes of a hearing. If the employee fails to make a request for a hearing within the ten work day period specified or notifies the employer before the expiration of the ten work day period that he will not make such a request, the decision shall be final.

6. In the second and third steps of the grievance procedure, the employee and the employer may call a reasonable number of relevant witnesses. Employees who are witnesses shall suffer no loss of pay or annual leave for such service. The employer, upon request, will permit inspection of pertinent payroll and other records as permissible without violating laws, rules, security or government policy for the purpose of substantiating the claim of the parties, in advance of the formal Step II of the grievance procedure.

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7. All time limits provided for herein, may be extended by mutual agreement for valid reasons provided that a request for extension is presented prior to the end of the prescribed time limit.

8. Within ten work days from the date of receipt of the hearing request, submitted through appropriate supervisory channels, The Adjutant General of New Hampshire will provide a list of three Hearing Officers. The employee will be required to select one to investigate his grievance. The list will not include any individual connected with the Support Personnel Management Office, nor any individual directly involved in the grievance action. The employee has five working days with which to indicate his selection in writing.

9. a. The hearings shall be held during the regularly scheduled work week and all employee representatives, employee appellants and employee witnesses shall be in a pay status without charge to annual leave while participating in the hearing proceedings. Reasonable travel time to be authorized, except that under no circumstances shall the employee, his representatives or witnesses be paid overtime by reason of participating in the hearing or granted Compensatory time off. The Hearing Officer will conduct the hearings at the location of the employee(s) or employer's organization/activity, unless another mutually agreed upon location is appropriate.

b. The following standards and procedures shall be observed in conducting hearings under the Administrative Grievance Procedures.

(1) Management is entitled to a representative at the hearing in addition to the presence of the employee's supervisor, who initiated the action being appealed. The representative need not be a line official over the appellant.

(2) The Management representative and the appellant may request reasonable numbers of witnesses who have direct knowledge of the facts concerning the appeal. They must promptly provide the Hearing Officer with a list of witnesses prior to the hearing.

(3) The employee shall have a full opportunity to present his side of the case, shall be informed of all factors pertaining to management's position in the case, and shall, along with the management representative, have the right to reply thereto and to question all witnesses at the hearing.

(4) Witnesses shall be called individually, advised of the purpose of the hearing, cautioned to remain as factual as possible in their testimony and advised that their testimony should not be discussed outside the hearing.

(5) The Hearing Officer shall consider all information presented by the employee and by management. The hearing will be conducted in an orderly manner, but will not be governed by legal rules of procedure and evidence.

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(6) A technician designated by the Support Personnel Management Officer, but not from his staff, shall serve as recorder for the Hearing Officer. The SPMO will render technical assistance to the Hearing Officer, prior and subsequent to the hearing.

10. a. The Hearing Officer will render his advisory decision to the Adjutant General of New Hampshire as quickly as possible, but in any event no later than ten calendar days after the conclusion of the hearings unless the parties otherwise agree.

b. Hearing Officer's Report: The Hearing Officer shall make a written report to The Adjutant General which shall contain findings and recommendations. In the report, the Hearing Officer must give his determination of the factual issues in the case based on his review of the complete record and analysis of the evidence. The Hearing Officer will provide copies of his report to the employee, the employee's representative, management representative, employee's supervisor and the SPMO.

c. Record of Hearings: Summary Transcripts of hearing will be made. The original of the transcript will be provided to the Hearing Officer for inclusion with the Case File. Copies will be provided to the employee, his representative (if requested), management representative, employee's supervisor and the SPMO.

11. a. Final decision will be rendered by The Adjutant General within ten days after receipt of advisory decision by Hearing Officer.

b. The decision letter will advise the employee that this decision exhausts his appeal rights. A copy of the decision letter will be furnished to the employee's representative, employee's supervisor and SPMO.

12. When several employees have an identical grievance (where no individual variations are involved) management will call the employees together and request them to select one case for processing under the provisions of this regulation. They should be told that, if they agree, the decision on the case selected will be binding upon all the other cases. If any employee refuses to participate in the agreement, his refusal shall not affect his right to process his grievance individually. Names of the employees who have identical grievances will be made a part of the record of the case selected for processing. When a decision is made on the grievance, each employee will be individually notified.

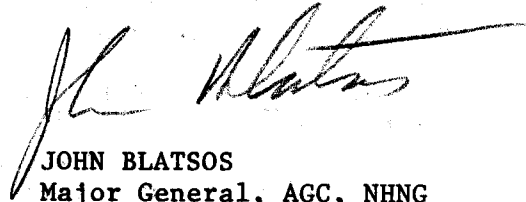
13. A copy of the grievance will be filed in the Official Personnel Folder in the Support Personnel Management Office. The file will contain, as a minimum, the following information:

a. Background information.

b. The employee's written grievance.

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- c. The hearing record, if any.
- d. Documentary evidence considered in resolving the grievance.
- e. The Hearing Officer's report, if any.
- f. The written decision on the appeal.

A handwritten signature in dark ink, appearing to read 'John Blatsos', is written over the typed name and title.

JOHN BLATSOS
Major General, AGC, NHNG
The Adjutant General